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# PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

10233-701.201

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on **June 6, 2008 by EFS**

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/681,821

Filed

10/07/2003

First Named Inventor

Anant V. HEGDE ET AL.

Art Unit

3762

Examiner

J. STOKLOSA

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 32,062

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

  
Signature

James R. Shay

Typed or printed name

650.212.1700

Telephone number

June 6, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**FILED VIA EFS ON JUNE 6, 2008**

**Attorney Docket No. 10233-701.201**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appl. No.	:	10/681,821	Confirmation No.:	6623
Applicant	:	Anant V. HEGDE et al.		
Filing Date	:	October 7, 2003		
Title	:	Vascular Assist Device and Methods		
Group Art Unit	:	3762		
Examiner	:	Joseph A. STOKLOSA		
Docket No.	:	10233-701.201		
Customer No.	:	66854		

**ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW**

MailStop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, Appellants submit these Arguments in support of Applicants' Pre-Appeal Brief Request for Review, which is filed herewith, together with a Notice of Appeal from the Final Office Action dated April 30, 2008.

### ARGUMENTS FOR REVIEW

In the Office Action dated April 30, 2008 (the "Final Office Action"), the Examiner acknowledged that claims 1-34, 36-39, 122-134 and 136-170 are pending and presented the following final rejection of the claims:

Claims 1-3, 9, 12, 14-17, 19-20, 26-27, 31, 36-39, 122, 136-139 and 143 stand rejected under 35 U.S.C. § 102(b) or § 103(a) over Easterbrook US 6,238,334 (Final Office Action, p. 2);

Claims 4, 7, 8, 10, 11, 13, 18, 28-30, 32-34, 140-142, 144-146, 159, 160, 169 and 170 stand rejected under 35 U.S.C. § 103(a) over Easterbrook (Final Office Action, p. 5);

Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) over Easterbrook in view of Walsh US 6,902,522 (Final Office Action, p. 9);

Claims 21, 128, 129 and 161-164 stand rejected under 35 U.S.C. § 103(a) over Easterbrook in view of Franchi US 6,030,335 (Final Office Action, p. 9);

Claims 123-127 and 130-134 stand rejected under 35 U.S.C. § 103(a) over Easterbrook in view of Freed US 5,169,379 (Final Office Action, p. 11); and

Claims 165-168 stand rejected under 35 U.S.C. § 103(a) over Easterbrook in view of Okuzumi US 6,587,734 (Final Office Action, p. 11).

The Final Office Action never states a ground of rejection for claims 22-25 and 147-158. Appellants therefore respectfully request that the Examiner clarify for purposes of this Appeal the status of these claims as being objected to for being dependent upon a rejected base claim. Alternatively, if the Examiner wishes to state grounds for rejection of these claims, Appellants respectfully request that the Examiner reopen prosecution to make the rejection(s).

Respectfully submitted,

Date: June 6, 2008

By: 

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